

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Marie Janet Aiello,

Debtor.

Case No. 06-54488-TJT

Chapter 7

Hon. Thomas J. Tucker

**ORDER REQUIRING SERVICE OF A PROPER 20-DAY NOTICE OF THE
TRUSTEE'S FINAL REPORT ON ALL CREDITORS**

This case is before the Court on the Chapter 7 Trustee's request for allowance of professional fees and reimbursement of expenses to the Trustee, which request is contained in the Trustee's final report, filed August 14, 2009 (Docket # 46). On September 16, 2009, the Trustee submitted a proposed order granting the fee request.

The Court concludes that it cannot grant the fee request yet, due to the following problems, which must be corrected. First, the 20-day notice of the Trustee's final report (Docket ## 47, 48), states that "[a]ny person wishing to object to any fee application or the Final Report, must file a written objection within 20 days of the date of this notice, . . ." Apparently this language is used as part of a United States Trustee form that was adopted in April 2009. The foregoing language is improper. Instead of saying that the objection deadline is "within 20 days of the date of this notice," it should say "within 20 days after service of this notice." With respect to fee applications exceeding \$1,000.00, whether by attorneys, accountants, trustees, or any other professional, the combination of Fed.R.Bankr.P. 2002(a)(6) and L.B.R. 9014-1(a)(second sentence) and 9014-1(b)(2) requires a notice/objection period that is 20 days **after service** of the notice. So the 20-day notice of the Trustee's final report must state that objections are due no later than "20 days after service of this notice."

Second, and compounding the first problem described above, the defective 20-day notice

is *dated* July 31, 2009; 20 days from that date was August 20, 2009. That date, then, was the stated deadline for any party to object to the final report or the Trustee's requested fees. But the 20-day notice was not even filed (by the United States Trustee) until August 14, 2009 (Docket # 47) and was not served (by mail) by the Bankruptcy Noticing Center ("BNC") until August 19, 2009, only one day before the stated objection deadline of August 20, 2009. (*See* Docket # 48, last page).

Third, the BNC's service of the defective 20-day notice on August 31, 2009, was inadequate in any event, because no parties were served other than the Trustee's firm, the Debtor, and the United States Trustee. (*See* BNC Certificate of Mailing, Docket # 48, last page). According to the Trustee's final report, there are 6 non-administrative creditors with allowed claims in this case. But there is no indication in the record that any of these creditors was served with the (defective) 20-day notice of the Trustee's final report.

Before the Court can consider granting the Trustee's fee request, all of these problems must be corrected, by the filing and service, on all creditors, of a proper 20-day notice of the Trustee's final report. Accordingly,

IT IS ORDERED that no later than September 25, 2009, the Chapter 7 Trustee (or if the United States Trustee wishes to do it, the United States Trustee,) must file and cause to be served a proper 20-day notice of the Trustee's Final Report on all creditors.

Signed on September 17, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge